STATE OF MICHIGAN

COURT OF APPEALS

FOR THE KIDS, L.L.C.,

Plaintiff-Appellee,

v

CHARTER TOWNSHIP OF CHESTERFIELD,

Defendant-Appellant.

UNPUBLISHED
November 2, 2006

No. 259986
Macomb Circuit Court
LC No. 2004-001386-AW

Before: Saad, P.J., and Jansen and White, JJ.

PER CURIAM.

In this land division case, defendant appeals as of right the order granting summary disposition in favor of plaintiff and denying summary disposition in favor of defendant. We affirm.

Defendant first argues that the trial court erred in determining that the property plaintiff wished to divide was a "parent parcel" within the meaning of the land division act, MCL 560.101 *et seq*. We disagree.

While plaintiff based its motion for summary disposition on MCR 2.116(C)(9) and (C)(10), it is evident that the trial court went beyond the parties' pleadings and granted summary disposition pursuant to MCR 2.116(C)(10). Defendant moved for summary disposition pursuant to MCR 2.116(C)(10) as well. We review de novo a trial court's decision on a motion for summary disposition under MCR 2.116(C)(10). *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). MCR 2.116(C)(10) provides for summary disposition where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. When deciding a motion for summary disposition under subrule (C)(10), a court must consider the entire record in a light most favorable to the nonmoving party. *Corley v Detroit Bd of Ed*, 470 Mich 274, 278; 681 NW2d 342 (2004). Review is limited to the evidence presented to the trial court at the time the motion was decided. *Peña v Ingham County Road Comm*, 255 Mich App 299, 313 n 4; 660 NW2d 351 (2003). The content or substance of the evidence proffered must be admissible. *Maiden v Rozwood*, 461 Mich 109, 123; 597 NW2d 817 (1999). A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds could differ. *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).

Within the land division act, a "parent parcel" or "parent tract" means "a parcel or tract, respectively, lawfully in existence on the effective date of the amendatory act that added this subdivision." MCL 560.102(i). Defendant does not dispute that plaintiff's property was lawfully in existence on the effective date of the land division act. Defendant does, however, dispute whether plaintiff's property constitutes a parcel.

The first criterion in determining legislative intent is the specific language of the statute. *Halloran v Bhan*, 470 Mich 572, 577; 683 NW2d 129 (2004). The fair and natural import of the terms employed, in view of the subject matter of the law, governs the analysis. *In re Wirsing*, 456 Mich 467, 474; 573 NW2d 51 (1998). If the statute is unambiguous, the Legislature is presumed to have intended the meaning that it plainly expressed and judicial construction is neither required nor permitted. *Solution Source, Inc v LPR Assoc Ltd Partnership*, 252 Mich App 368, 373; 652 NW2d 474 (2002). If the statute provides its own glossary, the terms must be applied as expressly defined. *Barrett v Kirtland Community College*, 245 Mich App 306, 314; 628 NW2d 63 (2001).

A "parcel" is defined as "a continuous area or acreage of land which can be described as provided for in this act." MCL 560.102(g). The land division act does not, however, have a specific provision mandating how a continuous area or acreage of land should be described in order to be considered a parcel.

Sections 134 through 141 of the land division act do address the proper method of describing final plats. Final plat descriptions must include the caption of the plat, the number of the claim and the municipality in which the land is situated, the name of the original plat and any part of it replatted, a description by distances and bearings of each excepted parcel, the number of lots, the number of outlots and private parks, and the intermediate traverse line if one is required on the plat. MCL 560.134. The map of the subdivision shall contain sufficient information to completely define, for the purpose of a resurvey, the location of any boundary, corner, or angle point within the plat. MCL 560.135. The exterior boundaries of the subdivision as drawn on the plat shall include and correctly show the land surveyed and divided and the exact length and bearings thereof, the area within the existing right of way of any abutting road or street, and the location of all boundary monuments established in the field in their proper places. MCL 560.136. All lots and outlots included in the plat must be numbered consecutively and lettered in alphabetical order. MCL 560.140(a)-(b). The length and bearing of side lot lines, front lot lines, rear lot lines, and other boundaries must also be shown. MCL 560.140(c)-(i).[1]

Sections 202, 206, and 207 of the land division act briefly address the description of assessor plats. The description of an assessor plat shall plainly define the boundary of each

[1] MCL 560.137 involves the description of all public or private grounds, streets, roads and alleys included in the plat, MCL 560.138 involves the situation where any part of a subdivision lies within or abuts a floodplain area, MCL 560.139 provides for the description of all public utility easements included in the plat, and MCL 560.141 provides that the description must show when the plat includes or abuts certain other improvements.

parcel and each road or street. MCL 560.202. The surveyor making the plat shall reconcile any discrepancies that may be revealed, so that the plat as certified to the governing body shall be in conformity with the records of the register of deeds as nearly as is practicable. MCL 560.206. There shall appear on every assessor's plat the bearings and distances of lines of each parcel recorded in the office of the register of deeds, and each lot shall also be numbered as provided for final plats. MCL 560.207.

Plaintiff's property is extensively described in the warranty deed and the facts stipulated by the parties. Those descriptions would meet the requirements for descriptions of final proprietor plats and assessor plats, which are the only description requirements actually found in the land division act itself. Because plaintiff's property meets the above requirements, we conclude that plaintiff's property is a continuous area of land which can be described as provided for in the land division act.

Defendant focuses on provisions of the land division act other than the definition of a parcel in arguing that plaintiff's property is not a parcel. In construing a statute, we presume that every word has some meaning and avoid constructions that would render any part of a statute surplusage or nugatory. *Jenkins v Patel*, 471 Mich 158, 167; 684 NW2d 346 (2004). Further, provisions not included by the Legislature should not be included by the courts. *Polkton Twp v Pellegrom*, 265 Mich App 88, 103; 693 NW2d 170 (2005). Statutory provisions must be read in the context of the entire statute so as to produce a harmonious whole. *Macomb County Prosecuting Attorney v Murphy*, 464 Mich 149, 159; 627 NW2d 247 (2001).

Defendant argues that a portion of a lot cannot, by definition, be a parcel. However, nothing in the language of the land division act compels such a conclusion and there is no statute providing that a portion of a lot cannot be both a parcel and a portion of a larger parcel. A "lot" is defined as "a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat." MCL 560.102(m). Moreover, § 263 of the land division act implies that a lot is a parcel. MCL 560.263 provides in part that "[n]o lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the ordinances of the municipality." Under that section, lots are subject to divisions. A "division" is defined as "the partitioning or splitting of a parcel or tract of land by the proprietor . . . ." MCL 560.102(d). Further, a "tract" is defined as "2 or more parcels that share a common property line and are under the same ownership." MCL 560.102(h). Lots would therefore appear to be parcels because only parcels or tracts of land are subject to divisions and lots are subject to divisions. Moreover, § 263 governs "lot[s]," "outlot[s]," and "*other* parcel[s] of land" (emphasis added). The use of the word "other" implies that "lot[s]" and "outlot[s]" are themselves "parcels of land" within the meaning of the act.

Defendant also argues that plaintiff's interpretation of the land division act would negate one third of the provisions of the act. Defendant does not, however, explain why this is the case. An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims; nor may he give issues cursory treatment with little or no citation of supporting authority. *Peterson Novelties, Inc v City of Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003). An appellant's failure to properly address the merits of his assertion of error constitutes abandonment of the issue on appeal. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002). Therefore, this issue is abandoned. Moreover, even under plaintiff's interpretation, the replatting provisions would still be relevant if a parcel were

not a parent parcel or if it had already been divided four times and the owner wished to divide the property further.

We conclude that plaintiff's property is a parent parcel as that term is defined in the land division act. Plaintiff's property falls within the broad definition given to the term "parcel," and defendant's attempt to demonstrate that a portion of a lot cannot be a parcel is unpersuasive. The trial court did not err in finding that plaintiff's property was a parent parcel.

Defendant finally argues that the trial court erred in determining that the position of the state agency charged with administering the land division act was irrelevant in this case. Unless the construction of a statute by the body charged with administering it is clearly wrong or another construction is plainly required, this Court generally affords deference to that construction. *Citizens Disposal, Inc v Dept of Natural Resources*, 172 Mich App 541, 550-551; 432 NW2d 315 (1988). Defendant provided a 1997 letter from the assistant manager of the Michigan Department of Consumer and Industry Services Subdivision Control Unit,[2] which opined that § 263 of the land division act only permits four divisions per lot for all plats unless the lot is replatted. We conclude that the trial court was correct to find the letter irrelevant. Even if the letter was the official construction of the state agency, it only discussed § 263 of the land division act. In contrast, this case is governed by §§ 108 and 109, which apply exclusively to divisions of parent parcels.

Affirmed.

/s/ Henry William Saad
/s/ Kathleen Jansen
/s/ Helene N. White

[2] The land division act is now administered by the Michigan Department of Labor and Economic Growth Office of Land Survey and Remonumentation.